

REMARKS

Claims 46 – 67 are pending and at issue.

The June 27, 2008 office action confirms that claims 46 – 67 recite allowable subject matter.

The office action rejects the reissue oath/declaration as defective.

The office action rejects claims 46 – 67 under 35 U.S.C. § 112, ¶1 for failing to comply with the written description requirement and the enablement requirement. Subsequently, the September 4, 2008 interview summary confirms that claim 47 is allowed.

Applicant respectfully traverses each of the rejections and requests their removal.

I. Status of Claims

Claims 46 – 67 remain pending and at issue.

The status of the claims is as follows:

Cancelled: Claims 1-45;

Amended: Claim 47 is amended by Amendment above,
Claim 67 was previously amended by Amendment dated
September 13, 2005; and

Twice Amended: Claims 46, 52, 54, 55, 60, and 61 are amended by Amendment
above, and are now each twice amended.

II. Reissue Oath/Declaration

The office action rejects the current reissue oath/declaration as defective for not identifying the error corrections currently sought in the application. Applicant will provide a supplemental reissue oath/declaration upon confirmation of the allowability of the pending claims.

III. Rejections under 35 U.S.C. § 112, ¶1

Applicant has amended independent claims 46, 52, 54, 55, 60, and 61 to replace the word “organic” with the word “biologic” as used in claim 47. No new matter has been added.

The examiner is requested to confirm that all pending claims recite allowable subject matter. The supplemental reissue declaration will be submitted after confirmation of the same.

IV. Response to Interview Summary

On September 4, 2008, an in-person interview was held between Examiners Evans and Elve and the below-signed representative and John Nees to discuss, with respect to this case, the June 27, 2008 office action and the outstanding rejections under 35 U.S.C. § 112, ¶1. No exhibits, other illustrations, prior art, prior art rejections, or any other pertinent matters, as set forth in MPEP §713.04, were discussed during the interview, with respect to this case.¹ At the interview, it was agreed that dependent claim 47 was in condition for allowance.

¹ At the September 4, 2008 interview, applicant’s representatives also discussed co-pending U.S. Application No. 09/775,106 and the outstanding rejections in that case, including the prior art rejections and certain cited art. Please refer to the file wrapper of that co-pending case for a discussion of that interview.

IV. Conclusion

The claims are in condition for allowance and an expedited confirmation of the same is respectfully requested.

Dated: September 26, 2008

Respectfully submitted,

By 

Paul B. Stephens

Registration No.: 47,970

MARSHALL, GERSTEIN & BORUN LLP

233 S. Wacker Drive, Suite 6300

Sears Tower

Chicago, Illinois 60606-6357

(312) 474-6300

Attorney for Applicant